

Chapter 8.067
Airport Hazard Zone

8.067.01 INTENT: The Airport Hazard Zone is established pursuant to the Authority conferred by the State of Iowa in Section 329.3 of the Iowa Code. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Council Bluffs Airport, Eppeley Airfield and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of the Airports; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of the Airports and the public investment therein. Accordingly, it is declared: *(Ordinance #2004-08/05-07-04)*

1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by the Airports; *(Ordinance #2004-08/05-07-04)*
2. That it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and *(Ordinance #2004-08/05-07-04)*
3. That the prevention of incompatible land uses, and obstructions should be accomplished, to the extent legally possible, by the exercise of the police power without compensation. *(Ordinance #2004-08/05-07-04)*

It is further declared that the prevention of the creation or establishment of hazards to air navigation, the elimination, removal, alteration or mitigation of hazards to air navigation, or marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land. *(Ordinance #2004-08/05-07-04)*

8.067.02 PURPOSE: The Airport Hazard Zone is established in order to: *(Ordinance #2004-08/05-07-04)*

1. Prevent the establishment of airspace obstructions in public airport approaches and surrounding areas. *(Ordinance #2004-08/05-07-04)*
2. Minimize potential dangers from, and conflicts with, the use of aircraft at the Airports. *(Ordinance #2004-08/05-07-04)*
3. Address Federal Aviation Regulation (FAR) Part 77 and all other applicable federal and state laws regulating hazards to air navigation. *(Ordinance #2004-08/05-07-04)*

8.067.03 DEFINITIONS

.01 ADMINISTRATIVE AGENCY: The incorporated city or unincorporated county underlying the Airport Hazard Zones as defined in this Chapter.

- City of Council Bluffs
- County of Pottawattamie County *(Ordinance #2004-08/05-07-04)*

.02 AIRCRAFT APPROACH CATEGORY: A grouping of aircraft based on 1.3 times their stall speed in their landing configuration at their maximum certified landing weight. The categories are as follows:

- Category A: Speed less than 91 knots.
- Category B: Speed 91 knots or more but less than 121 knots.
- Category C: Speed 121 knots or more but less than 141 knots.
- Category D: Speed 141 knots or more but less than 166 knots.
- Category E: Speed 166 knots or more. *(Ordinance #2004-08/05-07-04)*

- .03 AIRPLANE DESIGN GROUP: A grouping of airplanes based on wingspan. The groups are as follows:
Group I: Up to but not including forty-nine (49) feet.
Group II: Forty-nine (49) feet up to but not including seventy-nine (79) feet.
Group III: Seventy-nine (79) feet up to but not including one hundred and eighteen (118') feet.
Group IV: One hundred and eighteen (118) feet up to but not including one hundred and seventy one (171) feet.
Group V: One hundred and seventy one (171) feet up to but not including two hundred and fourteen (214) feet.
Group VI: Two hundred and fourteen (214) feet up to but not including two hundred and sixty-two (262) feet. (*Ordinance #2004-08/05-07-04*)
- .04 AIRPORT: The Council Bluffs Airport and/or Eppley Airfield. (*Ordinance #2004-08/05-07-04*)
- .05 AIRPORT ELEVATION:
Council Bluffs Airport: One thousand two hundred fifty (1,250) feet above mean sea level.
Eppley Airfield: Nine hundred eighty three (983) feet above mean sea level. (*Ordinance #2004-08/05-07-04*)
- .06 AIRPORT OWNER: The Council Bluffs and/or Omaha Airport Authority. (*Ordinance #2004-08/05-07-04*)
- .07 BUILDING RESTRICTION LINE (BRL): A line which identifies suitable building area locations on airports. The BRL should encompass the runway protection zones, the runway object free area, the runway visibility zones, NAVAID critical areas required for terminal instrument procedures, and areas addressed under 14 CFR Part 77 Subpart C (Airport Imaginary Surfaces) to a point where the surfaces obtain a height of at least thirty-five (35) feet above the primary surface. (*Ordinance #2004-08/05-07-04*)
- .08 HAZARD TO AIR NAVIGATION - An object which, as a result of an aeronautical study, the FAA determines will have a substantial adverse affect upon the safe and efficient use of navigable airspace by aircraft, operation of air navigation facilities, or existing or potential airport capacity. (*Ordinance #2004-08/05-07-04*)
- .09 HEIGHT: For the purpose of determining the height limits in all zones set forth in this Chapter, and shown on the Airport Hazard Zone Map, the datum shall be mean sea level elevation unless otherwise specified. (*Ordinance #2004-08/05-07-04*)
- .10 LARGE AIRPLANE: An airplane of more than twelve thousand five hundred (12,500) pounds maximum certified takeoff weight. (*Ordinance #2004-08/05-07-04*)
- .11 LARGER THAN UTILITY RUNWAY: A runway that is constructed for and intended to be used by propeller driven aircraft of greater than twelve thousand five hundred (12,500) pounds maximum gross weight and jet powered aircraft. (*Ordinance #2004-08/05-07-04*)

- .12 NONCONFORMING USE: Any pre-existing structure, object of natural growth, or use of land that is inconsistent with the provisions of this Chapter or an amendment thereto. (Ordinance #2004-08/05-07-04)
- .13 NONPRECISION INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure providing course guidance without vertical path guidance utilizing VOR, NDB, LDA, GPS, or other authorized RNAV system, for which a straight-in non-precision instrument approach procedure has been approved or planned. (Ordinance #2004-08/05-07-04)
- .14. NONPRECISION INSTRUMENT RUNWAY HAVING APPROACH PROCEDURE WITH VERTICAL GUIDANCE: A runway having an existing instrument approach procedure providing course and vertical path guidance that does not conform to Instrument Landing System (ILS) or Microwave Landing System (MLS) system performance standards, or a precision system that does not meet TERPS alignment criteria, utilizing WAAS and authorized barometric VNAV, for which a straight-in non-precision instrument approach procedure has been approved or planned. (Ordinance #2004-08/05-07-04)
- .15 NOTICE TO THE FAA OF PROPOSED CONSTRUCTION - 14 CFR Part 77, Objects Affecting Navigable Airspace, requires persons proposing any construction or alteration described in 14 CFR Section 77.13 (A) to give thirty (30) day notice to the FAA of their intent. This includes any construction or alteration of structures more than two hundred (200) feet in height above the ground level or at a height that penetrates defined imaginary surfaces located in the vicinity of a public use airport as well as construction or alteration of greater height than an imaginary surface extending outward and upward at one hundred to one (100 to 1) foot for a horizontal distance of twenty thousand (20,000) feet from the nearest point of the nearest runway. (Ordinance #2004-08/05-07-04)
- .16 OBSTRUCTION TO AIR NAVIGATION - An object of greater height than any of the heights or services presented in Subpart C of Code of Federal Regulation (14 CFR), Part 77. (Obstruction to air navigation is presumed to be hazards to air navigation until an FAA study has determined otherwise). (Ordinance #2004-08/05-07-04)
- .17 PERSON - An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them. (Ordinance #2004-08/05-07-04)
- .18 PRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure providing course and vertical path guidance conforming to Instrument Landing System (ILS) or Microwave Landing System (MLS), precision system performance standards, utilizing ILS, LAAS, WAAS, MLS, and other precision systems. It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning documents. (Ordinance #2004-08/05-07-04)
- .19 RUNWAY - A defined area on an airport prepared for landing and takeoff of aircraft along its length. (Ordinance #2004-08/05-07-04)
- .20 SMALL AIRPLANE - An airplane of twelve thousand five hundred (12,500) pounds or less maximum certified takeoff weight. (Ordinance #2004-08/05-07-04)

- .21 STRUCTURE - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines. (*Ordinance #2004-08/05-07-04*)
- .22 TREE - Any object of natural growth. (*Ordinance #2004-08/05-07-04*)
- .23 VISUAL RUNWAY - A runway without an existing or planned straight-in instrument approach procedure. (*Ordinance #2004-08/05-07-04*)

8.067.04

AIRPORT ZONES: In order to carry out the provisions of this Chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Airports. Such zones are shown on the Airport Hazard Zone Map, prepared by the Council Bluffs and Omaha Airport Authority, and is made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive standard. The various zones are hereby established and defined as follows: (*Ordinance #2004-08/05-07-04*)

- .01 Approach Surface Zone - A surface longitudinally centered in the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 8.067.05 of this Chapter. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone. (*Ordinance #2004-08/05-07-04*)
- .02 Inner Approach Surface - The inner portion of the approach surface is extending out from the runway end to where the Part 77 Subpart C approach surface reaches a one hundred (100) foot height above the ground elevation. (*Ordinance #2004-08/05-07-04*)
- .03 Runway With A Precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of sixteen thousand (16,000) feet at a horizontal distance of fifty thousand (50,000) feet from the primary surface. Its centerline is the continuation of the centerline of Runway 36 at the Council Bluffs Airport and Runways 18-36, 14L-32R and 14R-32L at Eppler Airfield. (*Ordinance #2004-08/05-07-04*)
- .04 Runway Protection Zone (RPZ) - An area off the runway end to enhance the protection of people and property on the ground. (*Ordinance #2004-08/05-07-04*)
- .05 Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is two hundred fifty (250) feet wide. The approach zone expands outward uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of runway. (*Ordinance #2004-08/05-07-04*)
- .06 Runway With A Visibility Minimum Of One (1) Mile Non-precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of two thousand (2,000) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the

continuation of the centerline of the Runways 14 and 32 at the Council Bluffs Airport.
(Ordinance #2004-08/05-07-04)

- .07 Runway With A Visibility Minimum Less Than One (1) Mile Non-precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is one thousand (1,000) feet wide. The approach zone expands outward uniformly to a width of three thousand five hundred (3,500) feet at a horizontal distance of ten thousand (10,000) feet from the primary surface. Its centerline is the continuation of the centerline of Runway 18 at the Council Bluffs Airport. (Ordinance #2004-08/05-07-04)
- .08 Transitional Zones - The transitional zones are the areas beneath the transitional surfaces. (Ordinance #2004-08/05-07-04)
- .09 Horizontal Zone - The horizontal zone is established by swinging arcs of five thousand (5,000) feet (Runway 14 and 32 at the Council Bluffs Airport) and ten thousand (10,000) feet (Runways 18 and 36 at the Council Bluffs Airport and Runways 18-36, 14L-32R and 14R-32L at Eppley Airfield) radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones. (Ordinance #2004-08/05-07-04)
- .10 Conical Zone - The conical zone is a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty to one (20 to 1) for a horizontal distance of four thousand (4,000) feet. (Ordinance #2004-08/05-07-04)
- .11 Primary Surface - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface is set forth in Section 8.067.04 of this Chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. (Ordinance #2004-08/05-07-04)

8.067.05 AIRPORT ZONE HEIGHT LIMITATIONS: Except as otherwise provided in this Chapter, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows: (Ordinance #2004-08/05-07-04)

- .01 Runway With A Visibility Minimum Of One (1) Mile Non-precision Instrument Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) feet along the extended centerlines for Runway 14 and 32 at the Council Bluffs Airport. (Ordinance #2004-08/05-07-04)
- .02 Runway With A Visibility Minimum Less Than One (1) Mile Non-precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of ten thousand (10,000) feet along the extended centerline for Runway 18 at the Council Bluffs Airport. (Ordinance #2004-08/05-07-04)
- .03 Runway With A Precision Instrument Approach Zone - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the

primary surface and extending to a horizontal distance of ten thousand (10,000) feet, then slopes forty (40) feet outward for each foot upward extending to a horizontal distance of forty thousand (40,000) feet along the extended centerlines for Runway 36 at the Council Bluffs Airport and Runways 18-36, 14L-32R and 14R-32L at Eppley Airfield. (Ordinance #2004-08/05-07-04)

- .04 Transitional Zones - Slope seven feet (7 feet) outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation. In addition to the foregoing, there are established height limits sloping seven feet (7 feet) outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet (7 feet) outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of five thousand (5,000) feet measured at ninety (90) degree angles to the extended runway centerline. (Ordinance #2004-08/05-07-04)
- .05 Horizontal Zone - Established at one hundred fifty (150) feet above the airport. (Ordinance #2004-08/05-07-04)
- .06 Conical Zone - Slopes twenty feet (20 feet) outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation. (Ordinance #2004-08/05-07-04)

8.067.06 USE RESTRICTIONS: Notwithstanding any other provisions of this Chapter, no use may be made of land or water within any zone established by this Chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. (Ordinance #2004-08/05-07-04)

- .01 RUNWAY PROTECTION ZONE - Runway protection zone is a trapezoidal area "off the end of the runway threshold established to enhance the protection of people and property on the ground" in the event an aircraft lands or crashes beyond the runway end. Runway Protection Zones underlie a portion of the approach closest to the airport. (Ordinance #2004-08/05-07-04)

Compatible land use within the RPZ is generally restricted to such land uses as agricultural and uses that do not involve congregations of people or construction of buildings or other improvements that may be obstructions. The following land use criteria apply within the RPZ: (Ordinance #2004-08/05-07-04)

- a. While it is desirable to clear all objects from the RPZ, some uses are permitted, provided they do not attract wildlife, are outside the Runway OFA, and do not interfere with navigational aids. Agricultural operations (other than forestry or livestock farms) are expressly permitted under this provision. Golf courses (but not club houses), although discouraged, may be permitted if a wildlife hazard assessment determines that it will not provide

an environment attractive to birds. Automobile parking facilities, although discouraged, may be permitted, provided the parking facilities and any associated appurtenances, in addition to meeting all of the preceding conditions, are located outside of the object free area extension. (Ordinance #2004-08/05-07-04)

- b. Land uses prohibited from the RPZ are: residences and places of public assembly. Churches, schools, hospitals, office buildings, shopping centers, and other uses with similar concentrations of persons typify places of public assembly. (Ordinance #2004-08/05-07-04)
- .02 BUILDING RESTRICTION LINE - No structures, other than those approved by the Federal Aviation Administration and the Council Bluffs and/or Omaha Airport Authority, and which conform to the underlying zoning designation, shall be constructed within the Building Restriction Line (BRL). (Ordinance #2004-08/05-07-04)
 - .03 EXEMPTION FOR AIRPORT OPERATIONS - Use restrictions shall not apply to necessary and incidental airport operations. (Ordinance #2004-08/05-07-04)
 - .04 Regardless of any other provisions of this Chapter, no use may be made of land or water within any zone established by this Chapter in such a manner as to do any of the following: (Ordinance #2004-08/05-07-04)
 - a. Create electrical interference with navigational signals or radio communication between the airport and aircraft,
 - b. Imitate airport lights,
 - c. Result in glare in the eyes of pilots using the airport,
 - d. Impair visibility in the vicinity of the airport,
 - e. Create bird strike hazards, or
 - f. Otherwise endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. (Ordinance #2004-08/05-07-04)

8.067.07 NONCONFORMING USES:

- .01 Regulations Not Retroactive. The regulations prescribed in this Chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Chapter, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Chapter and is diligently prosecuted. (Ordinance #2004-08/05-07-04)
- .02 Marking and Lighting. Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Manager of the Council Bluffs Airport and/or the Manager of the Eppeley Airfield to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the appropriate Airport. Any permit granted may be conditioned to require the owner of the structure in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. (Ordinance #2004-08/05-07-04)

- .03 Alteration or Change of Nonconforming Use. No permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this Chapter or any amendments thereto or than it is when the application for a permit is made. (*Ordinance #2004-08/05-07-04*)
- .04 Nonconforming Uses Abandoned or Destroyed. Whenever the Administrative Agency or its designee determines that a nonconforming structure is abandoned for one (1) year or destroyed, by any means, to the extent of more than sixty (60) percent of the replacement cost, said structure shall not be rebuilt, restored, or re-occupied for any purpose unless it shall thereafter conform to all regulations of this Chapter. (*Ordinance #2004-08/05-07-04*)

8.067.08

VARIANCES:

- .01 Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Chapter, may apply to the Airport Board of Adjustment for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Chapter. Additionally, no application for variance to the requirements of this Chapter may be considered by the Airport Board of Adjustment unless a copy of the application has been furnished to the Council Bluffs Airport and/or Omaha Authority for advice as to the aeronautical effects of the variance. If the Council Bluffs and/or Omaha Airport Authority does not respond to the application within ninety (90) days after receipt, the Airport Board of Adjustment may act on its own to grant or deny said application. (*Ordinance #2004-08/05-07-04*)

In addition, all applications for height variance within the airport zones shall be accompanied by Federal Aviation Administration Form 7460-1, which has been completed by the applicant and processed by the FAA regional office. (*Ordinance #2004-08/05-07-04*)

- .02 Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Airport Board of Adjustment, this condition may be modified to require the owner to permit the Council Bluffs and/or Omaha Airport Authority at its own expense, to install, operate, and maintain the necessary markings and lights. (*Ordinance #2004-08/05-07-04*)

8.067.09

CONFLICTING REGULATIONS: Where there exists a conflict between any of the regulations or limitations prescribed in this Chapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirements shall govern and prevail. (*Ordinance #2004-08/05-07-04*)

8.067.10

PERMITS

- .01 Existing Uses - No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation, than it was on the effective date of this Chapter or any amendment thereto or than it is when the application for a permit is made. (*Ordinance #2004-08/05-07-04*)
- .02 Future Uses - Except as specifically provided in a, b, and c hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit or variance therefore shall have been applied for and granted. Each application for a permit or variance shall indicate the purpose for which the permit or variance is desired, with sufficient particularity to permit or variance to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit or variance shall be granted. No permit or variance for a use inconsistent with the provisions of this Chapter shall be granted unless a variance or permit has been approved in accordance with Section 8.067.08 of this Chapter. (*Ordinance #2004-08/05-07-04*)
- a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than one hundred (100) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones. (*Ordinance #2004-08/05-07-04*)
 - b. In areas lying within the limits of the approach zones, but beyond the inner approach surface, no permit shall be required for any tree or structure less than one hundred (100) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones. (*Ordinance #2004-08/05-07-04*)
 - c. In the areas lying within the limits of the transition zones beyond the Building Restriction Line, no permit shall be required for any tree or structure less than one hundred (100) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones. (*Ordinance #2004-08/05-07-04*)
 - d. Any conditions that the Federal Aviation Administration attaches to the approval recommendation shall be adopted and administered by the Council Bluffs and/or Omaha Airport Authority. (*Ordinance #2004-08/05-07-04*)

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Chapter except as set forth in Section 8.067.05. (*Ordinance #2004-08/05-07-04*)

8.067.11

ADMINISTRATIVE AGENCY: It shall be the duty of the Administrative Agency and its designee to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Administrative Agency upon a furnished form. Applications required by this Chapter to be submitted to the Administrative Agency shall be promptly considered and granted or denied. Application for action by the Airport Board of Adjustment shall be forthwith transmitted by the Administrative Agency. (*Ordinance #2004-08/05-07-04*)

8.067.12

BOARD OF ADJUSTMENT

- .01 There is hereby created an Airport Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Administrative Agency in the enforcement of this Chapter; (2) to hear and decide special exceptions to the terms of this Chapter upon which such Airport Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances. (*Ordinance #2004-08/05-07-04*)
- .02 The Airport Board of Adjustment shall consist of members appointed by the city and county as provided in Section 329.12 of the Iowa Code. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing. (*Ordinance #2004-08/05-07-04*)
- .03 The Airport Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this Chapter. Meetings of the Airport Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Airport Board of Adjustment shall be public. The Airport Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such act, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the airport manager. (*Ordinance #2004-08/05-07-04*)
- .04 The Airport Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Chapter. (*Ordinance #2004-08/05-07-04*)
- .05 The concurring vote of a majority of the members of the Airport Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the Administrative Agency or decide in favor of the applicant on any matter upon which is required to pass under this Chapter, or to effect variation to this Chapter. (*Ordinance #2004-08/05-07-04*)

8.067.13

APPEALS

- .01 Any person aggrieved, or any taxpayer affected, by any decision of the Administrative Agency made in the administration of the Chapter, may appeal to the Airport Board of Adjustment. (*Ordinance #2004-08/05-07-04*)
- .02 All appeals hereunder must be taken within a reasonable time as provided by the rules of the Airport Board of Adjustment, by filing with the Administrative Agency a Notice of Appeal specifying the grounds thereof. The Administrative Agency shall forthwith transmit to the Airport Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. (*Ordinance #2004-08/05-07-04*)

- .03 An appeal shall stay all proceedings in furtherance of the action appealed from unless the Administrative Agency certifies to the Airport Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Administrative Agency cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Airport Board of Adjustment on notice to the Administrative Agency and on due cause shown. (*Ordinance #2004-08/05-07-04*)
- .04 The Airport Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. (*Ordinance #2004-08/05-07-04*)
- .05 The Airport Board of Adjustment may, in conformity with the provisions of this Chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances. (*Ordinance #2004-08/05-07-04*)

8.067.14 JUDICIAL REVIEW: Any person aggrieved, or any taxpayer affected, by any decision of the Airport Board of Adjustment, may appeal to the District Court of Iowa as provided in Chapters 329 and 335 of the Iowa Code. (*Ordinance #2004-08/05-07-04*)

8.067.15 VIOLATIONS AND PENALTIES: The penalty for violating any of the provisions of this Chapter shall be as set forth in Chapter 1.75. (*Ordinance #2004-08/05-07-04*)